

Doc # 2007164392
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Date: 01/03/2007 01:49P
Filed by: SKAMANIA COUNTY TITLE
Filed & Recorded in Official Records
of SKAMANIA COUNTY
SKAMANIA COUNTY AUDITOR
J MICHAEL GARVISON
Fee: \$53.00

After Recording Return to:
Business Loan Center, LLC
Independence Corporate Park
One Independence Point, Suite 102
Greenville, South Carolina 29615
Attn: File Department
SBA Loan #GP 242 426 40-00UT.

Scp

Document Title: Deed of Trust

Grantor: Danial Ray Cates

Grantee No 1. (Beneficiary under Deed of Trust): Business Loan Center, LLC

Grantee No 2. (Trustee under Deed of Trust): Skamania County Title Company

Abbreviated Legal: SE ¼ SEC 34 T2N R5E See Exhibit A for full legal description

Assessor tax parcel: 02-05-34-0-0-0600-00

Return Address:

Business Loan Center, LLC
Independence Corporate Park
One Independence Point, Suite 102
Greenville, South Carolina 29615
Attn: File Department
SBA Loan #GP 242 426 40-00UT

Document Title: DEED OF TRUST

Grantor(s): DANIAL RAY CATES

Grantee No. 1 (Beneficiary under Deed of Trust):
BUSINESS LOAN CENTER, LLC

Grantee No. 2 (Trustee under Deed of Trust):
SKAMANIA COUNTY TITLE COMPANY

Legal Description: See Exhibit A, real property is located in Skamania County, Washington

Tax Lot No: 02-05-34-0-0-0600-00

DEED OF TRUST

THIS DEED OF TRUST, made and entered into as of the 28 day of December, 2006, by and among DANIAL RAY CATES, a single man (the "Grantor"), with a mailing address of 721 Wantland Road, Washougal, Washington 98671, as Grantor, SKAMANIA COUNTY TITLE COMPANY ("Trustee"), with an address at P.O. Box 277, 41 Russell Street, Stevenson, Washington, 98648, as Trustee; and BUSINESS LOAN CENTER, LLC ("Lender"), with an address at Independence Corporate Park, One Independence Point, Suite 102, Greenville, South Carolina 29615, as beneficiary (hereinafter, this "Mortgage"). The maturity date of the indebtedness secured by this Mortgage, exclusive of any option to renew or extend such maturity date, is December 7, 2021.

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In conjunction with the execution of this Deed of Trust, and as additional security for the performance of Borrower's obligations under the Note, Borrower (as that term is defined in Section 1.02(a)(i) below), is executing that certain Trust Deed, of even date herewith ("First Mortgage") with respect to those certain mineral rights located in the Dove Creek Large, Box Elder County, Clarks Basin, Utah; David D. Morris and Jean M. Morris, are executing that certain Trust Deed, of even date herewith ("First Mortgage") with respect to that certain property commonly known as 39 Subdivided Lots in Rosen Valley Ranch, Park Valley, Utah and as more particularly described in the First Mortgage; and, LeGrand E. Morris and Dorothy K. Morris, Trustees of the LeGrand D. Morris Revocable Trust dated October 29, 1998 and David D. Morris and Jean M. Morris as Trustees of the D. and J. Morris Trust dated December 31, 2003 are executing that Trust Deed of even date herewith ("First Mortgage") with respect to that certain property commonly known as 23 Subdivided Lots in Rosen Valley Ranch, Park Valley, Utah.

ARTICLE I
Granting Clauses

Section 1.01. Grant of Real Estate Security. Grantor hereby irrevocably grants, bargains, sells, mortgages, warrants, transfers, conveys, assigns, sets over and pledges to Trustee, IN TRUST FOR THE BENEFIT OF LENDER, WITH POWER OF SALE, all of the following described property (the "Mortgaged Estate"):

(a) The real property owned by Grantor located in Skamania County, State of Washington, legally described in Exhibit A attached hereto and incorporated herein by this reference, which real property is not currently used or employed principally for agricultural purposes, together with and all and singular the tenements, hereditaments and appurtenances thereto, together with all right, title and interest of Grantor in all easements, rights-of-way, gores or strips of land, surface waters, ground waters, watercourses, mineral interests and subsurface rights, alleys, streets and sidewalks, whether now owned or hereafter acquired, either in law or in equity (the "Land");

(b) Any and all buildings and improvements now or hereafter erected or located on the Land, including all fixtures, attachments, appliances, equipment, machinery and other articles attached to such buildings and improvements (the "Improvements");

(c) All agreements for use and occupancy of any part of the Mortgaged Estate, now existing or hereafter entered into, including any and all extensions or modifications thereto (the "Leases"), and all of the rents, royalties, security deposits, income, receipts, revenues and other sums now due or which may hereafter become due to Grantor under any Lease or arising from the use and enjoyment of any part of the Mortgaged Estate, and all rights and remedies which Grantor may have against any party under the Leases (the "Rents"); and



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(d) All the estate, interest, right, title or other claim or demand with respect to the proceeds of insurance and any and all awards made for the taking of any part of the Mortgaged Estate by the power of eminent domain, or by any proceeding or purchase in lieu thereof.

TO HAVE AND TO HOLD the Mortgaged Estate unto Trustee, for the benefit of Lender and its substitutes, successors and assigns, forever.

Section 1.02. Secured Obligations.

(a) This Mortgage shall secure the following indebtedness and obligations, including all replacements, renewals, amendments, extensions, substitutions and modifications thereof:

(i) Payment of all indebtedness and performance of all obligations and covenants of Dove Creek Quarries, LLC (the "Borrower") under or pursuant to (1) the Promissory Note (the "Note") dated as of the date hereof, executed by Borrower in favor of Lender in the maximum aggregate principal amount of EIGHT HUNDRED THOUSAND AND NO/100 DOLLARS (\$800,000.00) (the "Loan"), (2) this Mortgage, and (3) all other "Loan Documents" (as defined herein); and

(ii) Payment of all future advances and all sums advanced by Lender to protect the Mortgaged Estate or otherwise pursuant to the terms of the Loan Documents, with interest on all of the foregoing at the interest rate (as defined in the Note) from the date of Lender's advance to the date of Borrower or Grantor's repayment of same.

(b) The indebtedness and the obligations secured by this Mortgage, which are described in paragraph (a) above, are hereinafter referred to as the "Secured Obligations."

(c) This Mortgage; the First Mortgage, the Subordinate Mortgage, the Note; Blanket Assignment of Contracts, Agreements and Licenses; and Security Agreement; and any other writing or instrument given to evidence or secure the payment of performance of any of the Secured Obligations are hereinafter collectively referred to as the "Loan Documents."

ARTICLE II
Payment and Performance

Section 2.01. Payment of Secured Obligations. Borrower or Grantor shall pay all sums due under the Loan Documents without offset, counterclaim or defense, as and when

the same shall become due. Borrower and Grantor shall fully and faithfully observe and perform all of the obligations of Borrower and Grantor to be observed and performed under the Loan Documents.

Section 2.02. Warranty of Title. Grantor warrants and represents that: (i) Grantor has good and marketable title to an indefeasible estate in fee simple in the Land and Improvements; (ii) Grantor has good and marketable title to all of the rest of the Mortgaged Estate; and (iii) such title of Grantor is free and clear of any liens or encumbrances, except as are set forth in Exhibit B herein (the "Permitted Encumbrances"). Grantor shall preserve Grantor's title and interest in the Mortgaged Estate and will forever warrant and defend the validity and priority of the lien, security interest and assignments created herein against the claims of all persons whomsoever, subject only to the Permitted Encumbrances.

ARTICLE III Taxes and Insurance

Section 3.01. Taxes. Grantor shall pay when due and before any penalty attaches or interest accrues, all general taxes, special taxes, assessments, water charges, sewer service charges, and other similar charges against or affecting the Mortgaged Estate or any property or equipment located on the Land, or which might become a lien upon the Mortgaged Estate (the "Taxes"). If any Tax may be legally paid in installments, Grantor shall have the right, at its option, to pay such Tax in installments.

Section 3.02. Insurance.

(a) Grantor shall at all times keep in full force and effect the following policies of insurance with respect to the Mortgaged Estate: (i) comprehensive general public liability insurance in an amount of not less than \$2,000,000.00, combined single limit coverage for injury to persons and damage to property, with a deductible limit satisfactory to Lender; (ii) standard fire and extended coverage casualty insurance, with vandalism and malicious mischief coverage and so called "all risks" or "DIC" coverage in the amount of the full insurable value of the Mortgaged Estate on a replacement cost basis (but in any event not less than the amount of the Loan); (iii) loss of rents or business interruption insurance covering all Rents for a period of one (1) year; and (iv) such other policies of insurance as Lender may from time to time require.

(b) All insurance policies shall: (i) be issued by a company or companies rated "A" or better by A.M. Best & Company and otherwise satisfactory to Lender; (ii) shall name Lender as an additional insured and loss payee; and (iii) shall provide a minimum of thirty (30) days' written notice to Lender prior to the expiration or any cancellation or modification of such policies. Grantor shall provide Lender with certificates evidencing all required insurance. In the event Grantor shall fail to maintain the insurance required by this section, Lender may, but shall not be so obligated, to procure such insurance as Lender shall

deem necessary, and any amount so expended by Lender shall be secured by this Mortgage and be repayable by Grantor upon demand, with interest at the rate of twelve percent (12%) per annum.

(c) In the event of any damage or destruction to the Mortgaged Estate, Grantor shall promptly make proof of loss to the insurers, and Grantor shall not adjust or compromise any claim under such insurance without the prior written approval of Lender. All proceeds of such insurance shall be paid directly to Lender, and each insurer is hereby authorized and directed to make such payment directly to Lender. Any proceeds shall be applied first to the payment of all costs and expenses incurred by Lender in obtaining such proceeds. The balance of the proceeds, if any, may be applied at the option of the Lender (i) against the Secured Obligations, without prepayment charge, or (ii) to the restoration or the repair of the Mortgaged Estate, in such order as Lender may elect, in its sole discretion. If Lender elects or has agreed to apply the insurance proceeds to restoration or repair of the Mortgaged Estate, Lender shall have the right to establish requirements for the disbursement of such proceeds as may be imposed by responsible mortgagees or holders of deeds of trust for advances of proceeds of commercial construction loans in the state in which the Mortgaged Estate is located.

(d) **WARNING.** Unless you provide us with evidence of the insurance coverage as required by our contract or loan agreement, we may purchase insurance at your expense to protect our interest. This insurance may, but need not, also protect your interest. If the collateral becomes damaged, the coverage we purchase may not pay any claim you make or any claim made against you. You may later cancel this coverage by providing evidence that you have obtained property coverage elsewhere.

You are responsible for the cost of any insurance purchased by us. The cost of this insurance may be added to your contract or loan balance. If the cost is added to your contract or loan balance, the interest rate on the underlying contract or loan will apply to this added amount. The effective date of coverage maybe the date your prior coverage lapsed or the date you failed to provide proof of coverage.

The coverage we purchase may be considerably more expensive than insurance you can obtain on your own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

ARTICLE IV

Maintenance; Alterations; Inspections

Section 4.01. Maintenance. Grantor shall: (i) maintain the Mortgaged Estate in good condition and repair, subject to ordinary wear and tear; (ii) not commit or suffer to be

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committed any waste of the Mortgaged Estate; (iii) comply with all laws, ordinances, regulations and restrictions now or hereafter affecting the Mortgaged Estate; and (iv) not do or permit to be done any act which would otherwise diminish the value of the Mortgaged Estate.

Section 4.02. Alterations. Grantor shall not remove, demolish or alter any of the Improvements without the prior written approval of Lender; provided, however, that Grantor may make interior, nonstructural alterations in an amount not to exceed \$5,000.00 in each calendar year. Grantor shall complete any construction or alteration of the Mortgaged Estate in a good and workmanlike manner.

Section 4.03. Inspections. Lender shall have the right at any time, upon reasonable prior notice to Grantor, to enter upon the Mortgaged Estate for the purpose of inspecting the same or to exercise any of its rights and remedies under the Loan Documents.

ARTICLE V Eminent Domain

Section 5.01. Eminent Domain. If all or any part of the Mortgaged Estate is taken or damaged by the exercise of the power of eminent domain or a conveyance in lieu thereof (a "Condemnation"), or should Grantor receive any notice or other information regarding any such proceeding, Grantor shall give prompt written notice thereof to Lender. Lender may participate in Condemnation proceedings, and Grantor shall consult with Lender and its attorneys and cooperate with them in the carrying on or defense of any such proceedings. All proceeds of Condemnation awards or sales in lieu thereof, and all judgments, decrees and awards for injury or damage to the Mortgaged Estate shall be paid to Lender and shall be applied first to all costs and expenses incurred by Lender in obtaining the proceeds. The balance of the proceeds, if any, may be applied at the option of Lender (i) against the Secured Obligations, without prepayment premium or (ii) to the restoration or repair of the Mortgaged Estate, in such order as Lender may elect, in its sole discretion. Lender shall not be liable or responsible for failure to collect or exercise diligence in the collection of any proceeds, judgments, decrees or awards.

ARTICLE VI Events of Default Remedies

Section 6.01. Events of Default. Each of the following shall be an "Event of Default" under this Mortgage:

(a) Failure of Borrower or Grantor to make any payment of principal or interest or any other payment under the Note or any other sum secured under any Loan



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Document within five (5) days of the date such payment shall be due and payable (calculated by including the due date);

(b) Failure by Grantor to perform or observe any other covenant or agreement set forth in this Mortgage, and the continuance of such default for thirty (30) days after notice thereof from Lender specifying such default;

(c) The occurrence of a default or an "Event of Default" under any Loan Document other than this Mortgage which is not cured within the applicable cure period, if any, provided therein;

(d) Any suit or proceeding shall be filed against Borrower or Grantor or any guarantor of Borrower under any Loan Document which, if adversely determined, could materially impair the ability of Borrower or Grantor or such guarantor to perform any of its obligations under any Loan Document, in the opinion of Lender, in its sole reasonable discretion;

(e) Any representation, warranty or statement made by Grantor, any guarantor or other party under any Loan Document or any other affidavit or instrument executed or delivered with respect to the Loan shall be determined by Lender to be false or misleading in any material respect;

(f) Grantor shall convey, alienate, transfer, mortgage, encumber, lease or assign ownership or control of all or any part of the Mortgaged Estate or any interest therein, whether legal or equitable, or in Grantor in violation of Section 7.01 hereof, or Grantor shall be divested of its title or any interest in the Mortgaged Estate in any manner, whether voluntarily or involuntarily, or if there is any merger, consolidation or dissolution affecting Grantor;

(g) Grantor (i) shall execute an assignment for the benefit of creditors or an admission in writing of Grantor's inability or failure to pay debts generally as they become due; or (ii) shall allow the levy against the Mortgaged Estate or any part thereof of any execution, attachment, sequestration or other writ or action which is not vacated or discharged within sixty (60) days after such levy; or (iii) shall allow the appointment of a receiver, trustee or custodian of Grantor or the Mortgaged Estate or any part thereof which receiver, trustee or custodian is not discharged within sixty (60) days after such appointment; or (iv) shall file as a debtor a petition, case, proceeding or other action pursuant to, or shall voluntarily seek the benefit or benefits of, any law granting relief to any debtor, or shall take any action in furtherance thereof; or (v) shall file a petition, complaint, answer or other instrument which seeks to effect a suspension of, or which has the effect of suspending, any of the rights or powers of Lender or Trustee granted under any Loan Document; or (vi) shall allow the filing of a petition, case, proceeding or other action against Grantor as a debtor under any law granting relief to a debtor, or shall seek or allow

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appointment of a receiver, trustee, custodian or liquidator of Grantor or of the Mortgaged Estate, or any part thereof, or of any significant portion of Grantor's other property, and (vii) Grantor shall admit, acquiesce in or fail to contest diligently the allegations thereof, or (viii) such petition, case, proceeding or other action shall result in the entry of an order for relief or order granting the relief sought against Grantor, or (ix) such petition, case, proceeding or other action is not permanently dismissed or discharged on or before the earlier of trial thereon or sixty (60) days following the date of filing;

(h) The occurrence of any event described in paragraph (g) above with respect to any guarantor of the Secured Obligations or any other person or entity obligated in any manner to pay or perform the Secured Obligations; and

(i) The occurrence of a default or an "Event of Default" under the First Mortgage and the Subordinate Mortgage.

Section 6.02. Remedies. Upon the occurrence of an Event of Default, Lender shall have the right to take any one or more of the following actions:

(a) Declare all Secured Obligations under this Mortgage, all Secured Obligations under the First Mortgage (as defined in the First Mortgage) and all Secured Obligations under the Subordinate Mortgage (as defined in the Subordinate Mortgage) to be due and payable, and the same shall thereupon become due and payable without any presentment, demand, protest or notice of any kind except as otherwise provided herein, and Grantor hereby waives notice of intent to accelerate the Secured Obligations, the Secured Obligations under the First Mortgage and the Secured Obligations under the Subordinate Mortgage;

(b) Commence an action to foreclose this Mortgage as a mortgage, or by power of sale pursuant to RCW Chapter 61.24, or appoint a receiver, or specifically enforce any of the covenants of this Mortgage;

(c) Exercise any or all of the remedies available to a secured party under the UCC pursuant to this Mortgage or any other Loan Document;

(d) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of its security, enter upon and take possession of the Mortgaged Estate or any part thereof and do any acts which it deems necessary or desirable to protect and preserve Lender's security;

(e) Without notice to Grantor or anyone claiming under Grantor, and without regard to the value of the Mortgaged Estate, to apply to any court having jurisdiction to appoint a receiver or receivers of the Mortgaged Estate, and Grantor hereby irrevocably consents to such appointment and waives notice of any application therefore.

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Any such receiver or receivers shall have all of the usual powers and duties of receivers in like or similar cases and all powers and duties of Lender in case of entry as provided in Section 6.06.

Section 6.03. Power of Sale. If Lender shall elect to foreclose this Mortgage, Lender may direct Trustee to institute a proceeding to sell the Mortgaged Estate pursuant to the power of sale granted to Trustee hereunder at such time, place and in such manner as may be prescribed by the Deed of Trust Act of the State of Washington, RCW Chapter 61.24 (the "Act") with all notices required by the Act for such sale. Subject to the Act, the proceeds of such sale shall be applied first, to the costs and expenses incurred by Trustee in conducting such sale; second, to the costs and expenses of Lender in enforcing its rights and remedies under the Loan Documents; third, to the payment of all Secured Obligations and all interest accrued thereon; and fourth, the remainder, if any, shall be paid to Grantor. The power of sale conferred by this Mortgage and by the Act is not an exclusive remedy; Lender may cause this Mortgage to be foreclosed as a mortgage.

Section 6.04. Remedies Not Exclusive; No Waiver. Every power or remedy given Lender by any of this Mortgage or any other Loan Document, or to which Lender may be otherwise entitled, may be exercised without prejudice to any other power or remedy, concurrently, independently, in any order or any manner from time to time and as often as may be deemed expedient by Lender. No remedy or power is intended to be exclusive of any other remedy or power, and Lender may pursue inconsistent remedies. The acceptance by Lender of the payment or performance of any Secured Obligation after the same shall be due shall not constitute a waiver of Lender's right to the prompt payment or performance of same, or to declare a default as herein provided. The acceptance by Lender of any sum in an amount less than the sum then due shall not constitute a waiver of Grantor's obligation to pay the entire sum, and such failure shall continue to be a default by Grantor notwithstanding Lender's acceptance of such partial payment. Consent by Lender to any action or inaction of Grantor which is subject to consent or approval shall not be deemed a waiver of any other or future right of Lender to consent under this Mortgage. Nothing set forth in this Mortgage shall be construed to constitute Lender as a "mortgagee in possession" in the absence of its actual taking possession of the Mortgaged Estate pursuant to the powers granted herein.

Section 6.05. Waivers. To the extent permitted by law, Grantor hereby agrees that it shall not at any time insist upon, plead, claim or take any benefit or advantage, in any way whatsoever, whether now or in the future, and Grantor hereby irrevocably waives, all of the following, whether the same exists under federal or state law, or otherwise at law or in equity:

(a) Any right of redemption of any of the Mortgaged Estate after sale under this Mortgage;

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(b) All rights and claims it may have in or to any of the Mortgaged Estate as a "homestead exemption," or similar exemptions;

(c) Any stay, extension or moratorium law which may extend the period for enforcement of this Mortgage or any period of redemption;

(d) Any and all right to require the marshaling of assets in connection with the exercise of any of Lender's remedies under this Mortgage, it being agreed that Lender shall have the right to determine, in its sole discretion, the order in which any of the Mortgaged Estate shall be sold, or the order in which any Secured Obligations are satisfied from the proceeds of such sale;

(e) Any right to trial by jury in any action, proceeding or counterclaim brought by any party against any other party on any matter arising out of or in any way connected with this Mortgage or the Loan Documents, the relationships among Grantor, Trustee and Lender, or Grantor's use and occupancy of the Mortgaged Estate;

(f) Any law providing for the valuation or appraisal of all or any part of the Mortgaged Estate prior to or after any sale or sales made pursuant to this Mortgage;

(g) Personal service of process in any action or proceeding at any time commenced to enforce this Mortgage or any of the Loan Documents, Grantor hereby agreeing that such process shall be deemed properly and adequately served if sent to Grantor as provided in Section 7.03 of this Mortgage;

(h) All notices not herein specifically required of Grantor's default under any of the Loan Documents, or of Lender's exercise, or election to exercise, any right, option or election under this Mortgage;

(i) Any and all technical or procedural errors, defects and imperfections in any of the Loan Documents or any proceedings instituted by Lender or the Trustee under this Mortgage; and

(j) Any claim or defense of Grantor contesting or challenging the personal jurisdiction of the "Courts" (as defined in Section 6.07 below), and any objection that Grantor may now or hereafter have to the laying of venue in the Courts for any suit, action or proceeding arising out of or relating to this Mortgage or any other Loan Document or any objection that such suit, action or proceeding in the Courts has been brought in an inconvenient forum.

Section 6.06. Preservation of Security. Notwithstanding the provisions of this Article VI, and in addition to any other rights or remedies of Lender under this Mortgage, should Grantor at any time fail to make any payment or perform any obligation under any

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Loan Document, Lender, in its sole discretion, without obligation to do so and without notice to or demand upon Grantor, and without releasing Grantor from any Secured Obligation or waiving any of Lender's rights under the Loan Documents, may cure such default of Grantor in such manner and to such extent as Lender may deem necessary to protect the security of this Mortgage. In connection therewith, without limiting its general powers, Lender shall have and is hereby given the right, but not the obligation:

- (a) To enter upon and take possession of the Mortgaged Estate;
- (b) To direct Grantor to terminate any management agent and employ such management agent as Lender may determine;
- (c) To make additions, alterations, repairs and improvements to the Mortgaged Estate which Lender may consider necessary or proper to keep the Mortgaged Estate in good condition and repair;
- (d) To appear and participate in any action or proceeding affecting or which may affect the security hereof or the rights or powers of Lender or Trustee;
- (e) To pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which in the judgment of Lender may affect the security of this Mortgage or be prior or superior hereto; and
- (f) In exercising such powers, to pay necessary expenses, including employment of counsel or other necessary or desirable consultants.

All costs and expenses incurred by Lender in connection with the exercise of the foregoing rights, including costs of evidence of title, court costs, appraisals, surveys and reasonable attorneys' fees, shall be secured by this Mortgage and be repayable by Grantor upon demand, with interest at twelve percent (12%) per annum (the "Default Rate").

Section 6.07. Consent to Jurisdiction; Waiver; Other Forums.

- (a) Any suit, action or proceeding arising out of or relating to this Mortgage or any other Loan Document, or any action or proceeding to execute on or otherwise enforce any judgment arising out of an Event of Default or other default under this Mortgage or any other Loan Document can be brought by Lender in the applicable federal district court or in the state superior court having jurisdiction for Snohomish County, Washington (collectively, the "Courts"). By executing and delivering this Mortgage, Grantor, its successors and assigns, hereby irrevocably and unconditionally submit to the non-exclusive personal jurisdiction of the Courts, for any suit, action or proceeding arising out of or relating to this Mortgage or any other Loan Document, and irrevocably and unconditionally agree not to assert in any proceeding before the Courts or any other court or

tribunal, by way of motion, as a defense or otherwise, any claim contesting or challenging the personal jurisdiction of the Courts. In addition, Grantor irrevocably waives, to the fullest extent permitted by law, (i) any objection that it may now or hereafter have to the laying of venue in the Courts for any suit, action or proceeding arising out of or relating to this Mortgage or any other Loan Document or (ii) any objection that such suit, action or proceeding brought in the Courts has been brought in an inconvenient forum.

(b) Nothing in this Section 6.07 or in any other Loan Document shall be deemed to preclude Lender from bringing a suit, action or proceeding arising out of or relating to this Mortgage, the First Mortgage or any other Loan Document in any other jurisdiction.

ARTICLE VII

General Covenants

Section 7.01. Prohibition on Transfer. Grantor shall not, by operation of law or otherwise, sell, convey, alienate, transfer, mortgage, encumber, lease or assign ownership or control of all or any part of the Mortgaged Estate or any interest therein, whether legal or equitable (including rents, issues or profits arising therefrom), or in Grantor (including any general or limited partnership interests, shares of stock or any other equity, beneficial or ownership interest in Grantor) without the prior written approval of Lender, in its sole discretion. Lender may withhold its approval or condition its approval of a transfer of the Mortgaged Estate, in Lender's sole discretion, upon (i) the credit worthiness and management experience of the proposed transferee; (ii) the terms of the purchase agreement; (iii) assumption by the proposed transferee of all of Grantor's obligations under the Loan Documents; (iv) payment of a transfer fee; and (v) such other terms and conditions as Lender may deem reasonably necessary. Notwithstanding the foregoing, such approval of Lender shall not be required for any such transfer by devise or descent.

Section 7.02. Compliance with Laws. Grantor shall promptly comply with all present and future federal, state and local laws, statutes and ordinances, and all covenants and restrictions of record affecting the Mortgaged Estate, including but not limited to (i) the Occupational Safety and Health Act (OSHA) 29 U.S.C. § 651, and (ii) the Americans with Disabilities Act (ADA) 42 U.S.C. §12101. Grantor shall not initiate or acquiesce in any zoning reclassification or material change in the zoning affecting the Mortgaged Estate without the prior written approval of Lender.

Section 7.03. Notices. Any notices or demands required or permitted under this Assignment shall be in writing and addressed to the address set forth hereinabove, or to such other address as either party may designate from time to time by written notice to the other party. All notices, approvals or communications required or permitted to be given under this Assignment shall be in writing and shall be deemed to have been properly given and received (i) if sent by hand delivery, then upon delivery, (ii) if sent by overnight courier or

U.S. Express Mail, then one (1) day after dispatch, and (iii) if mailed by registered or certified U.S. mail, postage prepaid and return receipt requested, then two (2) days after deposit in the mail.

Section 7.04. Legal Existence. If Grantor, or any party comprising Grantor, is a corporation, partnership, limited liability company or other entity, Grantor shall preserve and keep in full force and effect its legal existence and all franchises, rights and privileges under the laws of the state of its incorporation or formation and its standing and/or qualification to do business in the state in which the Mortgaged Estate is located.

Section 7.05. Liens and Subrogation Rights of Lender.

(a) Grantor shall not create, permit to accrue or suffer to exist upon any of the Mortgaged Estate, any security interest, judgment lien, mechanic's or materialman's lien, or any other lien, encumbrance, charge, retention or reservation of title, as security, pledge, hypothecate or assign any of the Mortgaged Estate as security, and shall promptly pay, when the same shall become due, all claims and demands of contractors, subcontractors, mechanics, materialmen, laborers and others which claims, if unpaid, might result in or permit the creation of a lien upon the Mortgaged Estate, and Grantor shall cause any such lien to be promptly paid and discharged, whether by payment, bonding or otherwise, within thirty (30) days after the filing of same.

(b) Lender, at its option, shall be subrogated, as further security for the Secured Obligations, to the lien of any lien, encumbrance or claim against the Mortgaged Estate paid out of the proceeds of the Loan, even though the same be released of record.

Section 7.06. Financial Statements. Grantor shall deliver to Lender, with reasonable promptness: (i) an income and expense statement with respect to the operation of the Mortgaged Estate for the immediately preceding fiscal year of Grantor, and (ii) a balance sheet and statement of profit and loss of Grantor for the immediately preceding fiscal year of Grantor. Each such operating and expense statement and financial statement shall be certified by the general partner or chief financial officer of Grantor, and shall be prepared in accordance with generally accepted accounting principles. Grantor shall also provide Lender with such additional information or records relating to the Mortgaged Estate or Grantor's financial condition as Lender may from time to time request. Upon request of Lender, Grantor shall furnish financial statements from major tenants under any Leases, to the extent Grantor is entitled under the Leases to receive such statements.

Section 7.07. Successors. The terms and provisions of this Mortgage, and the rights and obligations of Grantor, Trustee and Lender, shall inure to the benefit of and be binding upon Grantor, Trustee and Lender and their successors and assigns.

Section 7.08. Governing Law. This Mortgage shall be governed by and construed and enforced in accordance with the substantive laws of the State of Washington without regard to Washington conflict of laws principles.

Section 7.09. Release of Mortgage. Upon payment and performance in full of all of the Secured Obligations, Lender shall, upon demand of Grantor but in no event later than the time prescribed by applicable law, release the Mortgaged Estate from the lien of this Mortgage and shall furnish Grantor with a properly executed and recordable instrument evidencing such release.

Section 7.10. Estoppel Certificate. Within twenty (20) days after request by Lender, Grantor shall furnish Lender a duly acknowledged written statement, in form satisfactory to Lender, setting forth the amount of principal and interest then owing under the Note, any other charges payable under any Loan Documents, and stating whether any offsets or defenses exist to the indebtedness secured hereby.

Section 7.11. Lender's Approval. In any instance under this Mortgage in which Lender's approval shall be required, such approval may be given or withheld by Lender in Lender's sole discretion, and shall be final and conclusive. The granting of any approval by Lender shall not be deemed a waiver of such right of approval to any future matter, and all approvals by Lender must be in writing.

Section 7.12. Severability. If any term or provision of this Mortgage or the application thereof to any person or circumstance shall, to any extent, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof or any other circumstance or situation with respect to this Mortgage, and each remaining term and provision of this Mortgage shall be valid and be enforced to the fullest extent by law.

ARTICLE VIII

Trustee

Section 8.01. Responsibilities. Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth herein, and no implied covenants or obligations shall be imposed upon Trustee. No provisions of this Mortgage shall require Trustee to expend or risk its own funds or incur any financial obligation. Trustee may consult with counsel of its own choosing, and action taken by Trustee on the advice of such counsel shall be conclusive proof that such actions are taken in good faith and in reliance thereon, and Trustee shall not be liable for any action taken in accordance with such advice or which is reasonably believed by Trustee to be within the rights and powers conferred upon it by this Mortgage.

Section 8.02. Successor Trustee. Lender shall have the full power, at any time and from time to time, to appoint a successor or substitute trustee by instrument properly executed, acknowledged and filed for record in the county in which the Mortgaged Estate is located. Such successor or substitute trustee shall thereupon have and possess all of the powers, authorities, duties and obligations vested in and upon the Trustee named herein.

ARTICLE IX

Fixture Filing

Section 9.01 Fixture Filing. This Mortgage constitutes a financing statement, filed as a fixture filing in the real estate records of the county of the state in which the real property described in Exhibit A is located, with respect to any and all fixtures included with the definition of Improvements described in Section 1.01 of this Mortgage and to any goods or other personal property that are now or hereafter will become a part of the Property as fixtures.

ARTICLE XI

Small Business Administration Provisions

Section 11.01. Declaration. The Loan secured by this lien was made under a United States Small Business Administration ("SBA") nationwide program which uses tax dollars to assist small business owners. If the United States is seeking enforce this document, then under SBA regulations:

(a) When SBA is the holder of the Note, this document and all documents evidencing or securing this Loan will be construed in accordance with federal law.

(b) Lender or SBA may use local or state procedures for purposes such as filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using these procedures, SBA does not waive any federal immunity from local or state control, penalty, tax or liability. No Trustor or Guarantor may claim or assert against SBA any local or state law to deny any obligation of Borrower, or defeat any claim of SBA with respect to this Loan.

Any clause in this document requiring arbitration is not enforceable when SBA is the holder of the Note secured by this instrument.

ARTICLE XII

Waiver of Defenses

Section 12.01. No Prior Collection Efforts Required. Grantor agrees that it shall not be necessary for Lender or its assigns to institute suit or exhaust its legal remedies against Borrower in order to enforce this Mortgage. Grantor agrees that this Mortgage may be immediately enforced by Lender or its assigns upon the nonpayment when due of any


Initial

amount due under the Note or other Loan Document or other breach of any other obligation of the Note or other Loan Document.

Section 12.02. Extensions and Modifications; Failure to Enforce. Grantor agrees that Lender may from time to time extend the time for payment of any or all sums or other performance hereby secured, or otherwise modify, alter or change the Loan, the terms of the Note and/or other Loan Documents, and may receive and accept additional notes, checks, and other instruments for the payment of money made by Borrower, and extensions or renewals thereof, all without in any way releasing or discharging Grantor from its obligations hereunder. The lien of this Mortgage shall not be released, extinguished, modified, or in any way affected by failure on the part of Lender or its assigns to enforce all the rights or remedies available to it under the Note or other Loan Documents.

Section 12.03. Bankruptcy of Borrower. Grantor consents and agrees that the bankruptcy of Borrower shall not relieve it of its obligations assumed hereunder. Additionally, Grantor shall not be relieved of any obligation hereunder to the extent any payment made by Borrower is later recovered from Lender because such payment constitutes a preference, fraudulent conveyance or other voidable payment under the federal bankruptcy laws.

Section 12.04. Subordination; Waiver of Subrogation Rights. Grantor hereby subordinates to the instant Loan any claim or other right now existing or hereafter acquired against Borrower, or any other person who is primarily or contingently liable on the Loan, that arises from the performance of Grantor's obligations under this Mortgage, including, without limitation, any right of contribution, indemnity, subrogation, reimbursement, exoneration. Further, Grantor waives the right to participate in any claim or remedy of Lender against Borrower or any collateral security therefor which Lender now has or hereafter acquires, whether or not such claim, right or remedy arises under contract, law or equity.

Section 12.05. Reinstatement. The obligations of Borrower secured herein shall be automatically reinstated if and to the extent that, for any reason, any payment by or on behalf of Borrower is rescinded or must be otherwise restored by any holder of any of the guaranteed obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and Grantor agrees that it will indemnify Lender on demand for all reasonable payments, costs and expenses, including legal fees, incurred by Lender in connection with such rescission or restoration.

Section 12.06. Waiver of Notice, Presentment, Demand. Grantor waives all presentments, demands for performance, notices of non-performance, notices of default, protests, notices of protests, notices of dishonor, notices of acceptance of this Mortgage and notices of existence, creation or incurring of an obligation owing to the Lender.

Furthermore, Grantor waives notice of amendments, modifications, or supplements to any Loan Document.

IN WITNESS WHEREOF, Grantor has caused this Mortgage to be duly executed on the day and year set forth in the acknowledgment attached hereto and to be effective as of the date first set forth above.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LEND MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

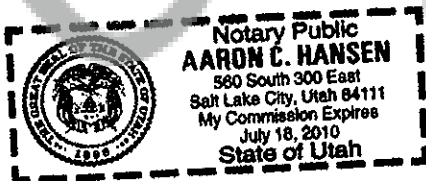
Daniel R. Cates
DANIEL RAY CATES, Individually
DANIAL
@

Att
UTAH
STATE OF WASHINGTON
COUNTY OF Salt Lake

ss.

I certify that I know or have satisfactory evidence that Daniel Ray Cates is the person who appeared before me, and said person acknowledged that said person signed this instrument and acknowledged it to be said person's free and voluntary act for the uses and purposes mentioned in the instrument.

Dated this 28 day of December, 2006.



Aaron C. Hansen
(Signature of Notary)

Aaron C. Hansen
(Legibly Print or Stamp Name of Notary)

Att
Utah Notary public in and for the state of Washington; residing at SLC, UT
My appointment expires 7/18/2010

D
Initial

REQUEST FOR FULL RECONVEYANCE

Do not record. To be used only when note has been paid.

TO: TRUSTEE.

The undersigned is the legal owner and holder of the note and all other indebtedness secured by the within Mortgage. Said note, together with all other indebtedness secured by said Mortgage, has been fully paid and satisfied; and you are hereby requested and directed, on payment to you of any sums owing to you under the terms of said Mortgage, to cancel said note above mentioned, and all other evidences of indebtedness secured by said Mortgage delivered to you herewith, together with the said Mortgage, and to reconvey, without warranty, to the parties designated by the terms of said Mortgage, all the estate now held by you thereunder.

Dated _____, 20____

EXHIBIT B

Permitted Encumbrances

1. Deed of Trust and the terms and conditions thereof:
Grantor: Daniel Ray Cates, a single man
Trustee: Geroge W. McKallup, Jr.
Beneficiary: Proteus Pension Plan and Trust.
Amount: \$150,000.00
Dated: February 18, 2005
Recorded: February 22, 2005
Recording No.: 2005156324

EXHIBIT 'A'

PARCEL I

Mabee mine

That portion of the West Half of the Southeast Quarter of Section 34, Township 2 North, Range 5 East of the Willamette Meridian, Skamania County, Washington, described as follows:

Commencing at a 1" iron pipe with a brass disk marking the Southwest corner of said Section 34, as shown in recorded Survey Book 1, Page 247;

Thence South 89°30'12" East along the South line of said Section 34, a distance of 2613.30 feet to a found 5/8" iron rod with a yellow plastic cap stamped "SWART 16929", marking the Southwest corner of Deed recorded in Book 130, Page 968;

Thence North 01°12'11" East along the West line of said West Half of the Southeast Quarter of said Section 34, a distance of 826.88 feet to the True Point of Beginning of this herein described parcel of land;

Thence continuing North 01°12'11" East along said West line, a distance of 497.58 feet to a found 5/8" iron rod with a yellow plastic cap stamped "HAGEDORN", as shown in recorded Survey Book 1, Page 244 for the Southwest corner of Lot 11 and the Northwest corner of the Southwest Quarter of said Southeast Quarter of Section 34;

Thence continuing North 01°12'11" East along said West line, a distance of 301.03 feet to the centerline of Wantland Road;

Thence Easterly along said centerline, a distance of 69.73 feet on a curve to the right having a radius of 300.00 feet and a central angle of 13°19'04";

Thence continuing along said centerline North 86°20'00" East, a distance of 39.95 feet;

Thence continuing along said centerline, a distance of 66.03 feet on a curve to the left having a radius of 100.00 feet and a central angle of 37°50'00";

Thence continuing along said centerline North 48°30'00" East, a distance of 204.53 feet;

Thence continuing along said centerline, a distance of 42.20 feet on a curve to the left having a radius of 100.00 feet and a central angle of 24°10'36";

Thence North 36°24'42" East, a distance 64.72 feet;

Thence North 29°09'52" East, a distance of 100.90 feet to the North line of said Lot 11;

Thence South 80°20'00" East along said North line, a distance of 726.38 feet to the North line of Lot 12 of said "HAGADORN" survey;

Thence North 60°40'00" East along said North line of Lot 12, a distance of 202.65 feet to a point on the East line of said West Half of the Southeast Quarter;

Thence South 01°11'49" West along said East line, a distance of 639.96 feet to the Northeast corner of the Southwest Quarter of the Southeast Quarter of said Section 34;

Thence North 89°28'13" West along the North line of said Southwest Quarter of the Southeast Quarter, a distance of 881.81 feet;

Thence South 01°12'11" West, a distance of 497.37 feet;

Thence North 89°29'55" West, a distance of 437.75 feet to the True Point of Beginning.